

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

Thomas M. DeMARTINI *et al.*

Serial No. 10/796,067

Filed: March 10, 2004

For: **RIGHTS EXPRESSION PROFILE
SYSTEM AND METHOD**

Confirmation Number: 2653

Group Art Unit: 3621

Examiner: Shahid KAMAL

Date: August 24, 2010

Comments on Statement of Reasons for Allowance

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Reasons for Allowance set forth in the Notice of Allowance mailed June 17, 2010, Applicants submit the following comments.

On pages 2-3 of the Notice of Allowance, the Examiner states:

4. This application is regarding a system, method and device for creating a rights expression for association with an item for use in a system for controlling use of the item in accordance with the rights expression, including specifying rights expression information indicating a manner of use of an item, the rights expression information including at least one element, the element having a variable and corresponding value for the variable; generating a profile of the rights expression information, including removing the value for the variable from the element; and generating an identification for the profile, whereby the rights expression information can be enforced on the device based on the variable and the identification for the profile.

The scope of the invention is properly characterized by the claims, not by this summation by the Examiner. The above-statement by the Examiner mischaracterizes the invention, and should not be given any substantive weight.

On page 3, the Examiner states:

5. The closest prior art is by Gilliam et al. (US Patent No. 7,206,765 B2). Gilliam teaches that specifying rights expression information using a computer, said rights expression information indicating a manner of use of an item of digital content, said rights expression information including at least one element, said element having a variable and corresponding value for said variable; generating a template of said rights expression information, including removing said value for said variable from said element; generating an identification for said template.

6. Gilliam fails to teach the aspect of "transmitting said identification for said template to a device adapted to situationally determine said variable and enforce said rights expression information based on said variable and said identification for said template, whereby said rights expression information can be enforced on a device based on said variable and said identification for said template".

Applicants do not agree with this characterization of the prior art, and do not acquiesce to the scope of the teachings of the prior art and the state of the prior art as asserted by the Examiner.

Furthermore, on page 3 of the Notice of Allowance, the Examiner states:

7. Yet even if the missing claimed elements were found in a reasonable number of references, a person of ordinary skill in the art at the time the invention was made would not have been motivated to include these missing elements in an embodiment in Walker disclosure because: all of the above mention reference is directed toward for a cryptographically assisted commercial network system designed to facilitate buyer-driven conditional purchase offers.

This paragraph does not appear to be related to this application. Applicants believe inclusion of this paragraph was an oversight by the Examiner, and this paragraph should not have any bearing whatsoever on this application.

Respectfully submitted,
NIXON PEABODY LLP

Date: August 24, 2010

/Stephen M. Hertzler, Reg. No. 58,247/
Stephen M. Hertzler
Reg. No. 58,247

NIXON PEABODY LLP
Customer No. 22204
401 9th Street, N.W., Suite 900
Washington, D.C. 20004-2128
(202) 585-8000
(202) 585-8080 (Fax)